

145 722

Served: December 21, 2001



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

**Contingent Application of Spirit Airlines, Inc.,
for Waiver of Notice and Early Termination of Service
Docket OST-2001-11113 - 3**

NOTICE PROVIDING ACCESS TO DOCUMENTS

On December 5, 2001, Spirit Airlines, Inc. (Spirit) filed a contingent application for waiver of notice and early termination of service under 49 U.S.C § 41719 pursuant to the provisions of 49 U.S.C § 41716(d) for service between New York's LaGuardia Airport and Melbourne, FL. Spirit also filed a motion under 14 C.F.R. 302.12 (Rule 12) of our regulations seeking confidential treatment for supporting documents and information. Spirit contends that these data and documents are proprietary, commercially sensitive, and confidential in nature which qualifies for their being withheld from public disclosure. Spirit has notified the Department that it does not object if access is limited to counsel and outside experts for interested parties.

In order to afford interested parties prompt access to the documents under conditions imposed by the Department under similar recent circumstances, we will grant immediate interim access to all documents covered by the Rule 12 Motions to counsel and outside experts for interested parties who file appropriate affidavits with the Department in advance. Moreover, we find it appropriate to grant interim access to any subsequent materials that may be filed in these cases under a Rule 12 Motion to counsel and outside experts for interested parties who file appropriate affidavits with the Department in advance, unless the party filing the motion objects. Our actions here will make evidentiary materials available for use by interested parties in this case.¹

We expect all affidavits to state, at a minimum, that (1) the affiant is counsel for an interested party or an outside independent expert providing services to such a party; (2) the affiant will use the information only for the purpose of participating in this proceeding; and (3) the affiant will disclose such information only to other persons who have filed a valid affidavit in Docket OST-2001-11113. Affiants and interested parties must understand and agree that any pleading or other filing that includes or discusses information contained in the covered documents must itself be accompanied by a Rule 12 motion requesting confidential treatment. Affidavits must be filed in Docket OST-2001-11113 with the Department of Transportation, Dockets, Room PL-401, 400 Seventh Street, S.W., Washington, D.C., 20590.

Affiants having filed affidavits may examine the documents at the Department of Transportation at the Dockets location. If access to the confidential material is sought from anyone other than

¹ Answers to the Spirit Motion are due seven days from the service date of this Notice. We will rule on the merits of the Rule 12 Motion at a later time.

the Docket Section, the person seeking access must provide a copy of the affidavit stamped by the Docket Section to show that it has been filed in the Docket.

We shall serve this notice on all persons on the service list for this docket.

By:

READ C. VAN de WATER
Assistant Secretary for Aviation
and International Affairs

Date: **December 21, 2001**

(SEAL)

An electronic version of this document is available on the World Wide Web at:
<http://dms.dot.gov/search>